

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

**In the Matter of Telecommunications
Relay Services and Speech to Speech
Services for Individuals with Hearing
And Speech Disabilities**

Docket No. 98-67

PETITION FOR RULEMAKING

**Respectfully submitted this 27th day
of June, 2004**

by:

**California Coalition of Agencies Serving
The Deaf and Hard of Hearing
(CCASDHH)**

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Petition for Rule Making

The California Coalition of Agencies Serving the Deaf and Hard of Hearing,¹ respectfully requests the Commission to issue a Notice for Proposed Rule Making to amend 47 C.F.R § 64.601 of the Commission’s Rules to make Video Relay Service (VRS) a mandated Telecommunications Relay Service (TRS). Section 64.601(14) states that TRS is a communication service that enables persons with a hearing or speech disability to communicate in a manner that is “functionally equivalent” to that of a person without a hearing or speech disability. Many people who are deaf or hard of hearing are fluent in American Sign Language (ASL). Through the use of recently improved Internet video conferencing technology, VRS provides sign language interpreters to facilitate telephone calls on behalf of these ASL users. By freeing these people from dependency on slower and less expressive text-based telecommunications, VRS holds for them the promise of “functional equivalency”. Only by mandating VRS can the Commission ensure it is readily available, of high quality, and has the features necessary to make it functionally equivalent.

¹ The Coalition consists of eight community-based nonprofit agencies providing various social services to deaf and hard-of-hearing Californians – Deaf Counseling, Advocacy and Referral Agency; Greater Los Angeles Agency on Deafness; Northern California Center on Deafness; Deaf and Hard of Hearing Service Center; Orange County Deaf Equal Access Foundation; Tri-County GLAD; Center on Deafness – Inland Empire; Deaf Community Services of San Diego – and the California Association of the Deaf, a statewide membership organization representing deaf consumers.

Background

When Congress passed the Americans with Disabilities Act in 1990, the technology to provide communication services for a manual language such as ASL was non-existent. The Commission's rules implementing the ADA, 47 C.F.R. §§64.601 – 64.605, incorporate the intention of the ADA that TRS be “functionally equivalent”. “Functional equivalency” as a goal is the essential requirement of these regulations. In order to achieve this goal, the Commission required that all telephone transmission services provide a minimum set of relay functions, representing the best current technology that could be supported by stable, efficient industry providers.² As telecommunications technology has progressed and new services have become available, the Commission has added new relay services to the minimum requirements, incorporating each as a step towards the larger goal of functional equivalency. Thus, in March of 2000, both Spanish language services and Speech-to-Speech services were added to the list of mandated services³.

Although the technological capacity for sending streaming video images over the Internet has existed since the mid 1990's, the model for VRS as a consistent and effective communications system has developed only in the last few years. The simultaneous improvement in data transfer rates through the use of compression technology⁴ and the widespread deployment and use of broadband and wireless Internet connections both for residential and industrial purposes⁵ has made VRS a viable industry with a rapidly

² 47 U.S.C. §225(a)(3).

³ FCC, *In the matter of Telecommunications Relay Services and Speech to Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket 98-67, FCC No. 00-56, 15 FCC Rcd 5140 (2000), 65 FR 40093, ordered February 17, 2000, released March 6, 2000.

⁴ Nat'l Exchange Carriers Ass'n (NECA), *Fulfilling the Digital Dream*, Access Market Survey, 2003, p. 9.

⁵ *Id.* at pp. 10 & 11.

growing consumer base. In March of 2000, the Commission determined that VRS had progressed far enough to merit reimbursement through the relay fund.⁶ This decision was made to encourage development of VRS technology towards meeting the goal of functional equivalency.⁷

In the four years since, total VRS usage minutes have increased.⁸ The increase both in usage and providers⁹ has shown that the Commission's reimbursement order has worked effectively to develop the VRS industry to the point where it is today a stable and competitive environment. The increase in numbers also illustrates the popularity of VRS within the deaf community because it allows a more robust, free flowing conversation approaching that of hearing people using the traditional voice telephone system.

Discussion

Because of the passage of the Americans with Disabilities Act in 1990, deaf and hard-of-hearing people participate more fully in daily life in the United States. More deaf and hard-of-hearing people are employed and participate in the business world, and more of them communicate using the telephone system because of the relay services mandated by the ADA and the FCC's implementing regulations. A significant and growing number of deaf people are depending on VRS for more effective communication with family, friends and for business. Thus, it is of vital importance that the FCC continues to move toward the goal of "functional equivalency" as required by the ADA, as it will affect the personal and work lives of hundreds of thousands of people, including those who are

⁶ FCC, *In the matter of Telecommunications Relay Services and Speech to Speech Services for Individuals with Hearing and Speech disabilities*, CC Docket 98-67, FCC No. 00-56, 15 FCC Rcd 5140 (2000), 65 FR 40093, ordered February 17, 2000, released March 6, 2000.

⁷ See FCC press release dated February 17, 2000, discussing action taken by the Commission (FCC 00-56).

⁸ See NECA, *TRS Fund Status Report: Funding Year July 2002 – June 2003* Status as of March 31, 2003.

⁹ NECA, *Fulfilling the Digital Dream*, Access Market Survey, 2003, p. 10.

deaf, their families, their friends and the people that they come into contact with through work or leisure.

VRS technology has progressed to the stage where many deaf consumers already possess the equipment necessary to utilize VRS at their home or work. Additionally, those wishing to use VRS who do not already own the equipment may purchase the equipment at a price that is not cost-prohibitive (some VRS providers distribute free equipment and others offer prepaid DSL service). Since the FCC began to reimburse providers for VRS services, the industry has developed a stable, consistent base of VRS providers.

VRS technology is currently the closest, most “functionally equivalent” means of communicating for deaf ASL users. ASL is a visual language using hand shapes and movement, facial expressions and body postures to convey a complex and fully functional grammar, punctuation and vocabulary that is entirely separate from English, with its own syntax.¹⁰ Many deaf and hard-of-hearing Americans use ASL as their primary language and English only as a secondary language.¹¹ The English literacy rate

¹⁰National Center on Deafness and Other Communication Disorders, National Institutes of Health, Pub. No. 00-4756, see <http://www.nidcd.nih.gov/health/hearing/asl.asp>, Feb. 2000.

¹¹ According to a 1997 study by the U.S. Census Bureau, *Americans with Disabilities, Household Economic Survey*, more than 7 million Americans had trouble hearing a spoken conversation and over 800,000 Americans could not hear a conversation at all. See U.S. Census Bureau, *Americans with Disabilities*, 1997, at page 3. This represents over 4% of the U.S. population. Of these, at least 5.4% experience hearing loss before the age of three and 14.2% before age 18. National Center for Health Statistics, *Data from the National Health Interview Survey, Series 10, Number 188, Table 13*, 1994. Those who lose their hearing before full acquisition of English are most likely to use ASL as their native language. Many of those who lose their hearing later in life also acquire and use ASL as their primary means of communication. *There are no current accurate estimates of how many among the deaf and hard-of-hearing population use ASL.* A now dated study estimated that in 1980, between 250,000 and 500,000 North Americans used ASL as their primary means of communication. Baker, C. and Cokely, D., "American Sign Language: A Teacher's Resource Text on Grammar and Culture," T.J. Publishers, Silver Spring, Md., 1980. The deaf and hard-of-hearing population has grown since 1980 as has the U.S. population (29%) and we can assume that the number of primary ASL users has grown as well, perhaps between 325,000 and 650,000.

in the deaf community is also low. The average level of English literacy for deaf adults is close to a fourth grade literacy level, about half that of the general population.¹²

Because VRS is conducted visually, allowing the deaf or hard-of-hearing consumer to use and see facial expressions and body posture, as well as signs, VRS enables the consumer to communicate quickly, easily, and naturally, in his or her own native language. This ease of use benefits both parties as it also speeds the communication time for the hearing party, providing more natural communication for him or her as well. The advantages VRS offers – speedier communication, ease of use, naturalness of communication, and a consistently higher level of comprehension – allows deaf and hard-of-hearing consumers to come closest to approximating the experience of the hearing consumer using traditional telephone voice transmission. In contrast, text-based relay service does not convey nuances of expression necessary for full understanding, communication is far slower with long pauses,¹³ it forces the parties to unrealistically limit their conversations, and it often fails to provide fluent communication since many native ASL users are not fully bilingual in English. These limitations, which are endured by those who use text-based TRS, can and do have serious detrimental effects on deaf and hard-of-hearing consumers both socially and for their employment potential because of their limited ability to communicate and interact with the rest of society. Simply put, traditional text-based relay services do not provide

¹² Holt, Judith A., Traxler, Carol B., and Allen, Thomas E., *Interpreting the Scores, A User's Guide to the 9th Edition Stanford Achievement Test for Educators of Deaf and Hard of Hearing Students*, Gallaudet Research Institute Technical Report 97-1, Washington D.C., 1997.

¹³ The same conversation using text-based relay typically takes at least five to seven times longer than one using traditional telephone voice transmission. The faster speed of communication of VRS and thus its greater efficiency, is a factor to be considered when comparing the higher reimbursement rate VRS requires to that of traditional text-based relay services. Thus, assuring that VRS is available is consistent with the ADA's mandate that relay services be provided "in the most efficient manner." 47 U.S.C. §225(b)(1).

functional equivalency, particularly for deaf and hard-of-hearing consumers who use ASL.

For greater functional equivalency, VRS must include the following features:

- User friendly interface
- Anytime access, 24 hours a day, seven days a week
- Short wait time (fast speed of answer)
- High quality and appropriate interpreter competency
- E911 access
- Call back/receipt
- Video messages (functional equivalent to voice mail)

Currently, VRS lacks most of these features. Mandating VRS along with the provision of a fair rate of reimbursement that fully compensates providers for all their necessary costs, including research and development, will give the greatest assurance that fully-featured and quality VRS services will become available in the shortest time.

Title IV of the ADA requires the Commission to adopt regulations to encourage the development of improved technologies: “The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 157(a) of this title, the use of existing technology and do not discourage or impair the development of improved technology.” 47 U.S.C. §225 (d)(2). Mandating VRS with those features that are feasible with the use of current technology is necessary to encourage improvements in VRS.

We therefore respectfully petition the Commission to mandate VRS as an essential step towards the goal of functional equivalency.

Dated: June 27, 2004

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "J. Kresse", with a long horizontal flourish extending to the right.

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